## UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF INDIANA INDIANAPOLIS DIVISION

JASPER WIRTSHAFTER,	)
BENJAMIN ROBINSON,	)
MADELEINE MELDRUM,	)
HEATHER AKOU, ANJALI BISWAS,	)
BRYCE GREENE, DAVID MCDONALD,	)
MAUREEN MURPHY, SARAH PHILLIPS,	)
JESS TANG,	
Plaintiffs,	) )
v.	) Case No. 1:24-cv-00754-RLY-MJD
THE TRUSTEES OF INDIANA UNIVERSITY, in their official capacities; PAMELA WHITTEN, in her individual and official capacity as President of Indiana University,	) ) ) )
Defendants.	) )

## **DEFENDANTS' STATEMENT OF DEFENSES**

Defendants, by their counsel, Barnes & Thornburg LLP, set forth their Statement of Defenses as follows:

- 1. Indiana University and Defendants have upheld their commitment to the First Amendment in all their decisions and actions relevant to the allegations in this case. In April 2024, Indiana University issued no trespass orders to Plaintiffs in response to Plaintiffs' failure to comply with demands from law enforcement, including the Indiana University Police Department and the Indiana State Police. As a public institution, Indiana University does not limit speakers or visitors based on their points of view or beliefs, and it does not prohibit the expression of objections to speakers or their points of view.
- 2. Indiana University's Expressive Activity Policy (eff. August 1, 2024) and the amended Expressive Activity Policy (eff. Nov. 15, 2024) ("Amended Policy") is a content-neutral, narrowly

tailored policy regulating the time, place, and manner of certain events on campus. These events are not limited on the basis of their content or viewpoint. The limitation on certain events is reasonable as Indiana University has a substantial governmental interest in protecting the safety of students, faculty, and staff while preserving IU's core educational mission.

- 3. Plaintiffs lack standing to bring claims related to the Amended Policy because they fail to show a particularized, concrete, and actual or imminent injury-in-fact as required under Article III.
- 4. Plaintiffs' claims are not ripe as they have not suffered any injury from Indiana University's Amended Policy, or the Amended Policy's Pre-Approval Requirements or Standards.
- 5. Defendants incorporate by reference their responses in their Answers to Plaintiffs' Second Amended Complaint and in their opposition to Plaintiffs' Motion for Preliminary Injunction.

Respectfully submitted,

s/John R. Maley

John R. Maley Amanda Jane Gallagher Charity Seaborn

BARNES & THORNBURG LLP

11 South Meridian Street Indianapolis, IN 46204

Telephone: (317) 231-7464 Email: jmaley@btlaw.com

> amanda.gallagher@btlaw.com charity.seaborn@btlaw.com

Counsel for Defendants